

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RODNEY T. YOUNG,

Plaintiff,

vs.

Case No. 3:04cv044
Ct. of App. No. 05-3489

UNITED STATES OF AMERICA,

JUDGE WALTER HERBERT RICE

Defendant.

DECISION AND ENTRY ADOPTING SUBSTITUTED REPORT AND
RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE
(DOC. #6) AND OVERRULING PETITIONER'S *PRO SE* OBJECTIONS
THERETO (DOC. #7); CAPTIONED CAUSE DISMISSED WITHOUT
PREJUDICE FOR FAILURE TO STATE A CLAIM UPON WHICH *CORAM
NOBIS* RELIEF MAY BE GRANTED OR, SHOULD PETITIONER NO
LONGER BE IN CUSTODY, UPON ITS MERITS; JUDGMENT TO ENTER
ACCORDINGLY; MOTION FOR LEAVE TO APPEAL *IN FORMA
PAUPERIS* AND FOR CERTIFICATE OF APPEALABILITY DENIED;
TERMINATION ENTRY

Based upon the reasoning and citations of authority set forth by the United States Magistrate Judge in his Substituted Report and Recommendations filed June 7, 2004 (Doc. #6), as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Substituted Report and Recommendations are adopted in their entirety. The Petitioner's *Pro Se* Objections to said judicial filing (Doc. #7) are overruled.

The Petitioner's Petition for a Writ of Error *Coram Nobis* is dismissed without prejudice, for failure to state a claim upon which *coram nobis* relief may be granted, should Petitioner remain in custody as a result of the judgment sought to be vacated. Should the Defendant no longer be in custody, the captioned matter, construed as a Motion to Vacate, Etc., pursuant to 18 U.S.C. § 2255, is denied upon its merits, as the within Court had subject matter jurisdiction to convict and sentence Petitioner.

Judgment is to issue accordingly.

Given that reasonable jurists would not find this Court's Opinion herein to be debatable, and, further, that Petitioner has failed to make a substantial showing of the denial of a constitutional right, this Court denies both a Certificate of Appealability and a request for leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

October 26, 2005

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Rodney Young, Pro Se
J. Richard Chema, Esq.